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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191371
Party	Plaintiff ClearChoice Holdings, LLC
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Date	11/08/2013
Attachments	supplement to opposer's response to applicant's motion to strike notices of reliance and motion for judgment for failure to prove case.pdf(117591 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CLEARCHOICE HOLDINGS, LLC)	
)	Opposition No. 91191371
Opposer)	
)	Mark: RIGHTCHOICE
v.)	
)	Serial No.: 77/685,491
DALE D. GOLDSCHLAG, D.D.S., P.C.)	
)	
Applicant)	

**SUPPLEMENT TO OPPOSER'S RESPONSE TO APPLICANT'S MOTION TO STRIKE
NOTICES OF RELIANCE AND MOTION FOR JUDGMENT FOR FAILURE TO
PROVE CASE**

ClearChoice Holdings, LLC ("Opposer") respectfully submits this supplemental statement to Opposer's Response to Applicant's Motion to Strike Notices of Reliance and Motion for Judgment for Failure to Prove Case ("Opposer's Response"), filed with the Trademark Trial and Appeal Board ("Board") on October 31, 2013.

As an initial matter, Opposer apologizes to the Board for wasting its time with this motion over, essentially, whether Opposer served its pretrial disclosures. Opposer attached a copy of Opposer's Pretrial Disclosures to Opposer's Response and stated they were served on then counsel for Applicant on July 30, 2013. Unfortunately, Opposer has been unable to locate the Certified Mail Return receipt in response to Applicant's new counsel's request for same. While the undersigned counsel for Opposer still believes the Pretrial Disclosures were served on then counsel for Applicant by regular mail, Opposer is not able to substantiate the service. Thus, Opposer must retract its statement on Page 1 of Opposer's Response that its Pretrial Disclosures were properly served. However, Opposer notes that Adam B. Kauffman, Applicant's counsel at the time, never raised the issue of not receiving the pretrial disclosures even though the

opposition was ongoing. Thus, Opposer had no reason to believe it had not served its Pretrial Disclosures.

While Opposer does not discount the importance of Pretrial Disclosures and regrets its oversight, it notes that Opposer ultimately chose not to take the testimony of any of the witnesses identified in the Pretrial Disclosures and, further, it has since withdrawn any and all reliance on the Rapoport Expert Report. Therefore, it is difficult to understand why Applicant continues to pursue its motion to strike the Notice of Reliance and Motion for Judgment. There is no basis for dismissing the opposition simply because Applicant filed its Notices of Reliance on the last day of its testimony period.

Opposer, upon further investigation at the request of Applicant's new counsel, realized it did not serve its Pretrial Disclosures as intended and is filing this supplement to correct the record.

Respectfully submitted,

ClearChoice Holdings, LLC

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Date: November 8, 2013

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November 2013, a true copy of Supplement to Opposer's Response to Applicant's Motion to Strike Notices of Reliance and Motion for Judgment for Failure to Prove Case was served on the following counsel of record for Applicant via first class mail, postage prepaid:

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